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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,561	11/26/2003	James R. Barber	3050-137	9953

7590 04/28/2005

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EXAMINER

TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,561

Applicant(s)

BARBER, JAMES R.

Examiner

Michael Trettel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26-40 and 42-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 5, 9-19, 21-24, 26-40, 42-48 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 20 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells (US 6,353,952 B1) in view of Barber (US 6,398,199). Wells shows a posturized spring core 12 for use within a mattress or box spring that comprises an assembly of coil springs 20 separated into zones of differing resilience. Each zone has a set of coil springs, either short springs 23 or tall springs 24 each of which correspond to heights H1, H2. The springs terminate at a constant bottom plane P2 with an upper top plane p1 corresponding to the taller height H2. Filler sections 14 made from polyurethane foam fill the gap between the shorter height H1 and the taller height H2. A second embodiment is shown in Figure 2A, in which a bottom plane P4 is created that also uses filler blocks of foam with the coil springs being set to extend evenly from a midplane. Note that Wells does not limit the type of springs used in the spring core to only individual coil springs, as set forth in column 7, lines 64 and 65 Wells teaches that "bands of coil springs may be incorporated into the spring core". Barber teaches that it is well known in the art to produce bands of pocketed coil springs for use within a spring core, in addition the examiner will note that it is very well known in the mattress art to use bands of pocketed coil springs in the production of spring cores used in mattresses and boxsprings. Since Wells

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suggests the use of spring bands when making his invention, and since Barber shows that the use of bands of pocketed coil springs formed in bands is well known in the art, it would have been obvious to the skilled artisan to have used bands of pocketed coil springs to make the spring core assembly shown by Wells.

Response to Arguments

Applicant's arguments with respect to claims 1 and 20 have been considered but are moot in view of the new ground(s) of rejection. The applicant is incorrect in asserting that Wells '952 does not contemplate using any other type of spring other than plain unpocketed coil springs. As is discussed in the rejection set forth above, Wells clearly suggests the use of other types of springs in the spring core, such as banded types of springs. It is abundantly well known in the spring and mattress art to mass produce spring bands that are strips of pocketed coil springs. Because of this the grounds of rejection of claims 1 and 20 have been changed to a §103(a) rejection.

Allowable Subject Matter

Claims 4, 5, 9 to 19, 21 to 24, 26 to 40, and 42 to 48 are allowed.

Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (571) 272-7052. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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A handwritten signature in black ink, appearing to read "Michael Trettel", with a stylized flourish at the end.

Michael Trettel
Primary Examiner
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